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# ETHICS OF CORPORATE MANAGEMENT.

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OUR traditional system of law and ethics is based on the existence of competition. We assume that if one man does business badly, people can deal with some one else. This danger of losing business, where it exists, is a powerful force, tending to make the merchant or manufacturer do well by his customers, and is in nineteen cases out of twenty a more efficient protection than any law possibly could be.

Broadly speaking, this has been true. But competition never has been quite as free or universal as the law assumes. There have always been places too small to get the benefit of it; there have always been business men too skilful to allow themselves to be hampered by it. In his charmingly practical book on "Politics" Aristotle tells two stories which are of perennial interest to the student of industrial combination. In the first of these, he relates how Thales of Miletus was a great philosopher, but was reproached by his neighbors because he was not as rich as they were. By his acquaintance with astronomy, Thales foresaw that there would be large crops of olives, and he purchased all the olive-presses of Miletus, depositing a very small sum in each case so as to make the transaction complete. When the olives were ripe, behold! there was no one but Thales to rent them the presses whereby they might make their oil; and Thales, who was thus able to charge what price he pleased, realized an enormous sum. He did this, says Aristotle, not because he cared for the money, but to show his neighbors that a philosopher can be richer than anybody else if he wants to, and if he is not, it simply proves that he has more worthy objects of contemplation.

There was a man in Syracuse, Aristotle goes on to say, in the days of Dionysius the Tyrant, who bought all the iron in Sicily

on so narrow a margin that without raising the price very much he was able to make twice the amount of his total investment in a short time. When Dionysius the Tyrant heard of this he was pleased with the ingenuity of the man; and he told him that he might keep his money, but that he had better leave Syracuse.

These stories show plainly enough that monopolies are no new thing; that more than two thousand years ago there was a Standard Oil Company of Asia Minor and a United States Steel Corporation of Sicily; and that the President of the United States is by no means the first monarch who has addressed himself somewhat aggressively to the problem of trust regulation. But in ancient times these monopolies of producers or merchants were an exception; now they are becoming the general rule.

The development of the power-loom and the spinning-machine in the middle of the eighteenth century, followed shortly by that of the steam-engine, substituted a system of centralized industry, where a number of people work together, for the scattered industry of the older times, where people worked separately. The invention of the steamship and the railroad enabled the large factories of modern times to send their goods all over the world, and allowed the establishments to increase in size as long as any economy in production was to be gained by such an increase. The capital required for these large industries was far beyond the power of any one man or any small group of partners to furnish. The modern industrial corporation, with free transfer of stock, limited liability of the shareholders, and representative government through a board of directors, was developed as a means of meeting this need for capital. Men who could take no direct part in the management of an industrial enterprise, and whose capital was only a very small fraction of what was needed for the purpose, could, under the system of limited liability, safely associate themselves with a hundred or a thousand others to take the chance of profit which concentration of capital afforded.

These industrial units soon became so large that a single one of them was able to supply the whole market. Competition was done away with, and monopoly took its place. This effect was first felt in the case of railroad transportation. You could not generally have the choice between two independent lines of railroad, because business which would furnish a profit to one line was generally quite inadequate to support a second. Nor could

you hope for the competition of different owners of locomotives and cars on the same line of track, because of the opportunities for accident and loss to which such a system was exposed. In England, indeed, they were impressed with the analogy of a railroad to a turnpike or canal, and for nearly half a century after the establishment of railroads they made all their laws on the supposition that cars and locomotives would be owned by different people. But the failure of these laws, when so persistently enacted and backed by a conservatism of feeling so strong as that of the English nation, is the best proof of the impracticability of the scheme. By 1850 it became pretty clear that most railroads had a monopoly of their local business. By 1870 the consequences of this monopoly had become quite clearly apparent.

These consequences were in some respects good and in some respects bad. The railroad managers were quick to introduce improvements and to effect economy of organization. These improvements allowed them to make their rates very low on through business in general, and particularly on business which came into competition with other railroads or with water routes. But the extreme lowness of these through rates only emphasized the glaring inequality between the treatment of the through or competitive business, and the local business of which the railroad had a monopoly. On the old turnpike, the cost of transportation had been high, but the shipper could rely upon the price as fair. There was always enough competition between different carriers to prevent them from making extortionate profits on any one shipment. On the railroad, which took the place of the turnpike, the cost of transportation was very much lower, but there was no assurance whatever of fairness. The local rates were sometimes kept two or three times as high as the through ones; and the shipper had to see carloads of freight hauled to market past his house from more distant points at twenty-five dollars a carload, when he himself was paying fifty dollars a carload for but a part of the same haulage. Nor was this the worst. Arbitrary differences between places were bad enough; but there was a similar discrimination between different persons in the same place. The local freight-agent was a sort of almoner of the corporation. The man who gained his ear, whether by honest means or not, got a low rate. The man who failed to get the ear of the freight-agent had to pay a much higher rate for the same service.

In this country things were at their worst in the years immediately following the civil war. While we had a one-price system in the trade of the country, both wholesale and retail, and in its banking, and to a large degree in its labor market, the whole system of American railroad rates was run on principles which a decently conducted store would have scorned to admit into its management. Our industrial methods had changed too fast for our ethics to keep pace with them. In the old-fashioned lines of business, people were allowed to charge what prices they pleased, because competition kept their power of making mistakes within narrow limits. In the local railroad freight business, competition was done away with, and the managers did not see the necessity of substituting any other legal or moral restraint in its stead. In fact, they asserted a constitutional right to be free of all other legal or moral restraints. They regarded the liberty to serve the public in their own way, which had been allowed them under the competitive system, as carrying with it a right to hurt the public in their own way when the protection of competition was done away with. Instead of seeing that the constitutional rights for the protection of property had grown up because property was wisely used, they asserted that it was none of the public's business how they used the property, as long as they kept within the letter of the Constitution.

Of course this arbitrary exercise of power provoked a reaction. The State Legislatures of the Mississippi Valley passed the various Granger laws which were placed on their statute-books from 1870 to 1875. These laws represented an attempt to reduce rates as unintelligent and crude as had been the attempts of the railroad agents to maintain rates. In the conflict of constitutional authority, the courts, on the whole, took the side of the Legislatures more than they did that of the railroads; and the ill-judged laws regulating railroad charges, which could not be repealed until several years too late, were an important factor in increasing the commercial distress that followed the crisis of 1873.

Just when things were at their worst, a really great man appeared on the scene of action in Charles Francis Adams of the Massachusetts Railroad Commission. He promulgated an idea, essentially ethical in its character, which not only was of great service at the time, but has been the really vital force in all good

schemes of corporate regulation ever since. It is hardly too much to say that all our plans for dealing with corporate monopoly have been successful according to the extent to which they conformed to Mr. Adams's idea, and that their ill success in various cases has been the result of departure from it. Mr. Adams's central principle was this: In the management of a railroad, the temporary interests of the road and of its various shippers are often divergent; but the permanent interests of the railroad and of the various shippers come very much closer together than the temporary ones, and can almost be said to coincide. A railroad which is managed to make the most profit for the moment will try to make very low rates on through business that might otherwise go to another line, and will squeeze to the utmost the local shippers who have no such refuge. But if a manager looks five years or ten years ahead, he will see that such a policy kills the local business, which, after all, must furnish the road's best custom, and stimulates a kind of competitive business which can and will go somewhere else when the slightest opportunity is given. The manager who looks to the future, therefore, instead of to the present, will put the local business on the same level as the through business; and if he makes any difference at all in the charge, it will be due to a slightly superior economy of handling large and regular consignments for long distances, as compared with the small and irregular consignments of intermediate points. The agent who simply wants to get the most money that he can for the moment will see an apparent advantage in making a special bargain with each customer. The agent who takes a long look ahead will do just what the store-keeper does who takes a long look ahead. He will see that the right customer to develop is the self-respecting man who is content with the same treatment as other customers; who is too proud for begging and too honest for bribery.

I cannot go into all the details of the application of this theory. Suffice it to say that, during the comparatively short time when he was at the head of the Massachusetts Commission, Mr. Adams did in fact persuade the railroad men of his State, and of a great many other States, to take this view of the matter; that by his recommendation, made without any authority except the authority of common sense, he permanently removed more abuses in railroad management than all the various State

statutes put together; and that the judicial decisions of the years from 1875 to 1885, when Mr. Adams's influence was dominant, show a constantly increased understanding, not only of the principles of railroad economy, but of the principles which make for the permanent public welfare of shippers and investors alike.

I have spoken of Mr. Adams's influence as an ethical one. The Railroad Commission of Massachusetts, under the original bill which established it, had practically no powers except the power to report. It was for this reason regarded by many as likely to be a totally ineffective body. This absence of specific powers was just what Mr. Adams welcomed. It threw the Commission back on the power of common sense—which does not seem as strong as statutory rights to prosecute people and put them in prison, but which, in the hands of a man who really possesses it, is actually very much stronger. And when commissions of more recent years, disregarding the experience of Mr. Adams, have besought over and over again for an increase of their power to make rates, and their power to prosecute offenders, and their power to keep the courts from reviewing their acts, I am reminded of the minister in the country church who said, "O Lord, we pray for power; O Lord, we pray for power;" until an old deacon, unable to contain himself, interrupted, "'Tain't power you lack, young man; it's ideas!"

In a complex matter like this we are governed by public opinion. Anything that makes it necessary for a man to get public opinion behind a measure of administration or regulation prevents him from trying unsound experiments, and assures him that the things that he carries through will be successful in fact and not merely in name. Good sense is needed to create acquiescence on the part of the courts, and to prevent widespread evasion of statutes and ordinances by the business men of the community as a body. Any measure which seems to dispense with the necessity of its exercise is pretty sure to end in disaster.

I have gone into the detail of Mr. Adams's work for the sake of this ethical lesson which it inculcates. We have passed beyond the conditions of Mr. Adams's time. National regulation has taken the place of State regulation of railroads. Other forms of corporate activity have organized into monopolies perhaps more widespread and powerful than any railroad monopoly ever was. The relations of corporations to their employees, and the

mutual duties of organizations of capital and labor toward the public in making continuous public service possible, have become vastly more complex than they were thirty years ago. But the essential fact still remains that the problem can be settled only by the exercise of common sense and a certain amount of unselfishness. Any law which seeks to render these qualities unnecessary or superfluous is foredoomed to failure. Any citizen who lets these qualities fall into abeyance falls short of a proper conception of public duty. The larger his position of influence in the industrial world, the greater is the responsibility upon him to bring these qualities into use in the conduct of corporate business.

The president of a large corporation is in a place of public trust. In an obvious sense, he is a trustee for the stockholders and creditors of his corporation. In a less obvious, but equally important, sense he is a trustee on behalf of the public.

In regard to the first of these points, the community has made substantial and gratifying progress toward proper moral standards and their enforcement. It will perhaps create surprise that I say this so unreservedly, when we have the results of the insurance scandals freshly in mind. But bad as these things were, they were not nearly so bad as many things that happened a generation earlier; and when the insurance scandals became known they created an outburst of public feeling of a very different kind from anything which would have developed forty years ago. The spontaneous and overwhelming character of this outburst shows a great moral advance. In the year 1870 it was the commonest thing in the world for the president of a large corporation to use his position as a means of enriching himself and his friends at the expense of the stockholders in general; and it might almost be added that it was the rarest thing in the world for anybody to object. The fact that Cornelius Vanderbilt admitted his stockholders to the benefit of profitable "deals," instead of taking the whole for himself and his friends, was a sufficient departure from the usage of the time to excite universal remark. The worst things which were done in our insurance companies represent a pious regard for the law and a scrupulous observance of the principles of morality, as compared with some of the transactions in Erie in the early seventies. Ten years later things had improved. It was no longer considered proper for a



president to wreck his company in order to enrich himself. Yet even in this decade it was held that minorities of stockholders had no rights which majorities were bound to respect; and while the public did not justify the president in getting rich at the expense of his stockholders, it saw no harm if he used his inside information to get rich at the expense of anybody and everybody else. It is greatly to the credit of some of our best railroad men that in the last decade of the nineteenth century we rose above this state of things. The example of a recent president of the Lake Shore Railroad, who died a relatively poor man when the stock of his corporation stood higher than that of almost any other railroad in the country, is a thing which deserves to be remembered—and which has been.

Banks and railroads were the two lines of business where corporate scandals first developed on a large scale. They are now the two lines of business where standards of corporate honor, beyond what the law could enforce, have become pretty well established. This is no mere coincidence. Corporate powers gave opportunities for abuse which did not exist before. Where these powers were greatest these abuses developed first and made the earliest public scandals. It was here that the business men themselves felt the need of remedies deeper reaching than those which the law could give. Combinations of merchants or manufacturers or of financiers outside the regular lines of banking were a later thing, and therefore we are only at this moment correcting the evils which are incident to their conduct.

It takes a long time for a man to learn to transfer a principle of morality which he fully recognizes in one field to another field of slightly different location and character, particularly if the application of strict morality in the new fields is going to hurt his personal interest. I remember a story of a country court in a warranty case which furnishes an instance in point. One man had sold another a cow, and had represented that cow as possessing certain good qualities—adding, however, that he did not warrant her. The cow proved not to possess the qualities alleged, and the buyer sought to recover the purchase-money. As there was no dispute about the facts, the plaintiff's attorney thought that he had an easy case; for it is a well established principle of law that a disclaimer of warranty in such a sale does not protect the transaction from the taint of fraud if the

matters in question were ones which the seller really could know and the buyer could not. He showed a sufficient number of legal precedents to illustrate this principle; but was somewhat dumfounded when the opposing lawyer rose and said, "May it please the court, every one of the cases cited by my learned brother is a horse case. I defy him to produce one relating to horned cattle." The court was impressed with this fact, and instructed the jury to the effect that it had been established from time immemorial that a disclaimer of warranty was invalid with regard to a horse, but that the case of a cow was something totally different. We witnessed a somewhat similar condition in recent years, when men who would have recognized that it was wrong to get rich at the expense of a stockholder, who had clear and definite rights to dividends that were earned, were perfectly willing to use all kinds of means to enrich themselves at the expense of the policy-holders, whose rights were vague and indefinite. The lesson of last year was a terrible one; but I believe that it has been thoroughly learned. The business community of to-day recognizes that the president and directors of a corporation have a fiduciary relation both to their stockholders and to their creditors; that any man who disregards this relation is guilty of breach of trust, just as much as he would be if he used his position as guardian of an orphan to enrich himself at the expense of his ward. If any man does not see this, the business community despises his intellect. If he does see this, and acts in disregard of it, the business community despises his character.

Unfortunately, the obligation of the managers of our corporations to the public is not yet as clearly recognized as their obligation to the stockholders. Some of those who are most scrupulous about doing all that they can for the stockholders make this an excuse for doing as little as they can for the public in general; and disclaim indignantly the existence of any wider trust or any outside duty which should interfere with the performance of their primary trust to the last penny. There is many a man who, in the conduct of his own life, and even of his own personal business, is scrupulously regardful of public opinion, but who, as the president of a corporation, disregards that opinion rather ostentatiously. Personally, he is sensitive to public condemnation; but as a trustee he honestly believes that he has no right to indulge any such sensitiveness. He is unselfish in

the one case, and selfish in the other. I believe that this results from an extremely short-sighted view of the matter; and that the conscientious fulfilment of wider obligations, which he assumes as a matter of course when his own money is at stake, is at once wise policy and sound morality when he is acting as trustee for the money and interests of others.

Even from the narrowest standpoint of pecuniary interest, the duty of the corporate president to the investors demands that he should by his life and his language strive to diminish the danger of legal spoliation which threatens property rights in general and the rights of corporate property in particular. This obligation is partly recognized, and partly not. Our leaders of industry, as a rule, do not spend great sums on ostentatious luxury, and do spend great sums on objects of public benefit. Both of these facts are invaluable conservative forces. On the other hand, too many of them insist publicly on an extreme view of their legal rights and claims, which cannot help irritating their opponents, and which does a great deal more harm to the interests of property than most people think. It was the arrogance of the freight-agents quite as much as the mistakes in their schedule of charges that precipitated the Granger agitation. They defiantly refused to recognize the shipper's point of view. Every such defiance by the head of a large corporation makes more converts to radicalism and socialism than the speaker ever dreams. If a man intends to stand on his legal rights it is generally wise for him to keep as quiet as the circumstances admit. The cases are few and far between where a loud statement in advance that he is going to stand on his legal rights, and that those rights, in his judgment, are consonant with the laws of God, produces anything but an adverse effect on his interests and on the interests of those whom he represents. It is not for the profit of the year's balance-sheet that the corporate president should regard himself as responsible, but for the profit in the long run; and that profit in the long run is identified with the maintenance of a conservative spirit and the avoidance of unnecessary conflicts between those who have and those who have not.

The duty of the corporate president to the investors also demands that he use all wise means for the maintenance of continuous public service. The more complete the monopoly which

he has, and the more vital the public necessity which he provides, the greater is the importance of this aspect of his trust for the permanence of the interests which he represents. For if the employer is indifferent to the public need in this regard, the employees will be still more indifferent. If he tries to make public necessity a means to reinforce his demands, they will make that public necessity a means to reinforce their demands; and in this contest the employees will have every advantage on their side. Each conflict of this kind will increase the demand for public regulation of corporate affairs, even if the interests of the investors suffer thereby; and it may reach a point where many lines of business will be taken out of the hands of private corporations and into the hands of the government.

In the old days, when the public was served by a number of independent establishments, a strike was a grave matter for the establishment where it existed, and a comparatively small thing for anybody else. The public got its goods from some other quarter. The slight shortage in the supply might raise the prices a little, but it did not produce a famine. The community as a whole could wait complacently for the fight to be settled. If, however, the company has a monopoly, the conditions are reversed. The strike, if protracted, causes great inconvenience and generally considerable suffering to the public, while the effect on the finances of the corporation is often comparatively slight. Indeed, it has become a proverb that strikes are not as a rule good reasons for sale of the securities of the companies affected. I am afraid that this fact makes the presidents of our corporations, especially those who hold a narrow view of their duties, more careless than they otherwise would be about men whom they choose for positions of superintendence, and about the policy which they adopt in early stages of labor disputes. But it is upon care in these particulars, rather than upon any machinery for compulsory arbitration, that we must rely for the prevention of strikes. I suppose that some time we shall devise systems of arbitration which will avoid a large number of our industrial quarrels; but those that I have actually seen in operation do not appear very promising. We are told that compulsory arbitration has been made to work in New Zealand; but some of the official information which we get from New Zealand has been so totally discredited that we must be a little cautious about

accepting any of the testimony which is transmitted to us. Nor do I believe very greatly in the efficiency of profit-sharing systems as a general means of preventing labor troubles. Sometimes they work well; oftener they do not. Plans for attaching the laborers to the corporate service by pension funds, by the distribution of stock, and other means of this kind, are perhaps rather more promising. Yet even these are limited in the applicability, and sometimes cause more unrest than they prevent.

For the present, it is not to any machinery that we must look for the solution of these difficulties. It is to a wider sense of responsibility on the part of directors and general officers. The man who selects his subordinates solely for their fitness in making the results of the year's accounts look best, and instructs them to work for these results at the sacrifice of all other interests, encourages the employees to work for themselves in defiance of the needs either of the corporation or of the public, and does more than almost any professional agitator to foster the spirit which makes labor organizations unreasonable in their demands, and defiant in their attitude. For the laborers, like some of the rest of us, are a good deal more affected by feeling than by reason; a good deal more influenced by examples than by syllogisms.

When I was connected with the "Railroad Gazette," we had occasion to discuss a strike on the part of one of the best of the labor unions, in which, contrary to the usual practice of that organization, the demands were quite unreasonable. There was something puzzling in the whole situation, which I could not account for. A close observer who, though he was on the side of the corporation, had sense enough to look at the facts dispassionately, said, "Do you know Blank?" naming a man high in the operating department of the road concerned. I said that I did. "Blank," he said, "is an honest man. He is, according to all his lights, an honorable man. And yet if Blank were placed over me I would strike on any pretext, good or bad, just to show how I hated his ways of doing business. This strike is, of course, an unjustifiable one. For the sake of all concerned it should be stopped as soon as possible, and your paper should say so. But when the strike is over, sail into the road with all your might for employing a man like Blank in a position precisely the opposite of anything for which Providence designed him." It soon became evident that this was a true account of the origin of the

strike. The company saw the situation, and transferred the man, on its own account, to another post for which he was more fitted.

Workmen are accessible to examples of loyalty, as well as examples of selfishness. One of our very large manufacturing concerns in western Pennsylvania a few years ago made a change in its operating head. Not many months after the change I had the opportunity to inquire of a foreman how things were working under the new management. "Sir," was the reply, "there isn't a man in the works but what would go straight through hell with the new boss if he wanted it." I told the "new boss" the story; and all he said was, "I guess they know that I'd do the same for them." That was the voice of a man—an exceptional man; but what he really accomplished represents a kind of result which all of us will do well to keep in view.

In the great railroad strikes of 1877, when the Brotherhood of Locomotive Engineers—at that time a far less conservatively managed organization than it has since become—intoxicated with its successes in the South, ordered a general tie-up of New England, the men of the New York and New England Railroad met the order with a flat refusal. They had no other reason, and they gave no other reason, than their loyalty to a man who was at that time a superintendent of no particular reputation or influence outside of his own immediate sphere of duty—Charles P. Clark, who afterwards became president of the road. That one man by his personality not only prevented a general strike throughout New England, but by that act restored the balance of industrial force in the United States at a time when it was more seriously threatened than it ever has been, before or since.

A few years later, when a strike on the Union Pacific Railroad was scheduled by the Knights of Labor, the president of that road prevented the strike by the simple expedient of so arranging matters that the responsibility for the interruption of public service would, at each stage of the proceedings, be clearly put upon the labor leaders themselves. If the company had been simply claiming the right to serve itself, they would have claimed an equal right to serve themselves, and might very possibly have had the sympathy of the public behind them. But when matters were so arranged in advance that the responsibility for the interruption rested upon their shoulders alone, even the Knights

of Labor—and Western Knights of Labor at that—shrank from taking the responsibility of a conflict with the nation. Of course, strikes will continue to occur after all precautions are taken. They may come to the man or the company that least deserves it. But we can impress upon the managers of corporations the duty of showing more solicitude for the protection of the public against the disastrous results of the strike when it does come, and the unwisdom of saying much about the sacredness of the rights of private property under the Constitution at a time when such words can only irritate the employees and alienate the suffering public.

There is, indeed, a sacredness of property right in this country which goes far beyond the letter of the Constitution. The Constitution guarantees that no man shall be deprived of his property without due process of law; that no State shall pass any law impairing the obligation of contract; and that a corporation has the right of a person in the sense of being entitled to fair and equal treatment. The conservatism of the American people goes farther than this. It supports a business man in the exercise of his traditional rights, because it believes, on the basis of the experience of centuries, that the exercise of these rights will conduce to the public interests. It puts the large industries of the country in the hands of corporations, even when this results in creating corporate monopoly, because it distrusts the unrestricted extension of government activity, and believes that business is, on the whole, better handled by commercial agencies than by political ones. But every case of failure to meet public needs somewhat shakes the public in this confidence; and this confidence is not only shaken but destroyed if the manager of a corporation claims immunity from interference as a moral or constitutional right, independent of the public interests involved.

Personally, I am one of those who look with serious distrust on each extension of political activity. I believe that the interstate commerce law did more to prevent wise railroad regulation than any other event in the history of the country. I think that the courts would have dealt with our industrial problems better than they have done if the anti-trust act had never been passed. I have gravely doubted the wisdom of some of the more recent measures passed by the national government. But I cannot shut my eyes to the fact that these things are what business men must

expect, unless business ethics is somewhat modified to meet existing conditions. Industrial corporations grew up into power because they met the needs of the past. To stay in power, they must meet the needs of the present, and arrange their ethics accordingly. If they can do it by their own voluntary development of the sense of trusteeship, that is the simplest and best solution. But if not, one of two things will happen: vastly increased legal regulation, or State ownership of monopolies. Those who fear the effects of increased government activity must prove by their acceptance of ethical duties to the public that they are not blind devotees of an industrial past which has ceased to exist, but are preparing to accept the heavier burdens and obligations which the industrial present carries with it.

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